

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14262, of Hudai Yavalar, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a reinstatement of BZA Order No. 14048, dated April 5, 1984, for variances from the lot occupancy requirements (Sub-section 3303.1 and Paragraph 7105.12) and the rear yard requirements (Sub-section 3304.1) to construct an addition to a nonconforming structure housing a dwelling unit and, in part, a nonconforming grocery store in an R-3 District at premises 1643 - 34th Street, N.W., (Square 1278, Lot 848).

HEARING DATE: March 13, 1985

DECISION DATE: March 13, 1985 (Bench Decision)

ORDERED

The subject application was scheduled for the public hearing of March 13, 1985. Notice of the application was given based on the information provided and relief requested by the applicant at the time the application was filed. The application requested reinstatement of the Board's prior Order No. 14048, which granted area variance relief necessary to construct an addition to a nonconforming structure housing a single dwelling unit and, in part, a nonconforming grocery store in an R-3 District.

During the course of testimony by the applicant, questioning by the Board and cross-examination of the applicant by the opposition present at the public hearing, the applicant stated that the structure contains two dwelling units in addition to the grocery store use. A two family dwelling or flat is not a use permitted as a matter-of-right in the R-3 District. The applicant testified that he does not have a certificate of occupancy authorizing a flat at the subject premises or evidencing the nonconforming use of the subject premises for that purpose. The applicant has a certificate of occupancy for the existing nonconforming grocery store only. As set forth in Sub-section 8104.1 of the Zoning Regulations, no person shall use any structure, land or part thereof for any purpose other than a one-family dwelling until a certificate of occupancy has been issued stating such use complies with the Zoning Regulations and Building Code.

The application, as advertised, requests reinstatement of previously considered area variances relative to the addition to the structure only. The application, as

reviewed by the Zoning Administrator and as filed and advertised for the public hearing and as previously approved in BZA Order No. 14048, does not evidence the existence of a flat at the subject premises as a valid nonconforming use. The application does not request a use variance to permit the establishment of a flat at the subject premises.

Based on the foregoing, the Board concludes that the application is not properly before the Board. The applicant misrepresented the use of the premises as grocery store and single dwelling, rather than grocery store and flat. Neither the relief previously granted by the Board, relief which the applicant seeks to have reinstated, nor the Zoning Administrator's review address the use of the subject premises as a flat. The Board is unable to determine whether relief in the form of a use variance is required in addition to the requested area variance.

It is hereby ORDERED that the subject application is DISMISSED as not properly before the Board. The applicant is advised that an application for a certificate of occupancy should be filed with the Department of Consumer of Regulatory Affairs which should request the use that actually is to be made of the entire premises. A determination can then be made as to what relief is necessary for consideration by the Board.

VOTE: 4-0 (Carrie L. Thornhill, Lindsley Williams, Charles R. Norris and William F. McIntosh to DISMISS; Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 21 MAR 1985

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

14262order/LJPC

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT




BZA APPLICATION NO. 14262

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that copies of the Order of the Board in the above numbered case, said Order dated 21 MAR 1985, have been mailed postage prepaid to the following parties who appeared and participated in the public hearing concerning this matter:

Hudai Yavalar
2816 38th Street, N.W.
D.C. 20007

William A. Cochran, Chairperson
Advisory Neighborhood Commission 2E
1041 Wisconsin Avenue, N.W.
Washington, D.C. 20007

Isabel Shannon
2923 Q Street, N.W.
D.C. 20007



STEVEN E. SHER
EXECUTIVE DIRECTOR

Date: 21 MAR 1985